

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CENTRAL DIVISION

JUNELLE HAUTH,	:	NO. C08-3025MWB
Plaintiff,	:	
v.	:	COMPLAINT
THE PRUDENTIAL INSURANCE	:	
COMPANY OF AMERICA,	:	
Defendant.	:	

COMES NOW Plaintiff, Junelle Hauth, and for her cause of action against Defendant, The Prudential Insurance Company of America, states as follows:

1. Plaintiff, Junelle Hauth, is a resident of Fort Dodge, Webster County, Iowa.
2. Defendant, The Prudential Insurance Company of America, is a foreign corporation whose principal place of business is located in a state other than Iowa.
3. Plaintiff is the widow of Marvin E. Hauth who died on May 18, 2006.
4. Marvin E. Hauth was a long time employee of Verizon Business and its predecessor, MCI.
5. As an employee of Verizon and its predecessor in interest, MCI, Marvin E. Hauth had certain employee benefits that were governed by and were within the scope of the Employee Retirement Income Security Act (ERISA), 29 U.S.C. § 1001 et seq., including a group life insurance benefit provided by Defendant under which Plaintiff was the beneficiary.
6. Marvin E. Hauth, while employed with Verizon, was diagnosed with pancreatic cancer.

7. Marvin E. Hauth was placed on short term and long term leave by his employer, Verizon, due to his disease, inability to function and need for medical care and treatment.

8. Marvin E. Hauth's pancreatic cancer spread and affected other systems of his body and affected his mental capacity and ability to comprehend and to reason to the extent that he was incompetent to handle his business and financial affairs.

9. Marvin E. Hauth's illness and his diminished mental capacity were known to his employer.

10. While Marvin E. Hauth was in the final stages of dying from pancreatic cancer and his diminished mental capacity had rendered him incompetent, his employer, Verizon terminated his employment.

11. Under the terms of the group life insurance policy provided by Defendant to Marvin E. Hauth, following termination of employment, Marvin E. Hauth was entitled to written notice that he had the option to convert his group life insurance policy to an individual life insurance policy.

12. Plaintiff asserts, in the alternative, either that Marvin E. Hauth did not receive written notice of his right to convert life insurance or, that if the notice was sent to Marvin Hauth, at that time he was incompetent to receive or to comprehend the notice or to take action to convert the group life insurance to an individual policy.

13. Marvin E. Hauth died on May 18, 2006, as a result of respiratory failure due to metastatic pancreatic cancer.

14. Plaintiff, as beneficiary of the death benefit under the policy, has demanded payment from Defendant of the death benefit to which she is entitled.

15. Defendant has willfully failed and refused to pay the death benefit to Plaintiff, has breached its contract and has denied her a benefit to which she is entitled in violation of her rights protected by ERISA.

16. Plaintiff has appealed to the Defendant, The Prudential Insurance Company of America, for the denial of payment by the Defendant, The Prudential Insurance Company of America and has exhausted her administrative remedies.

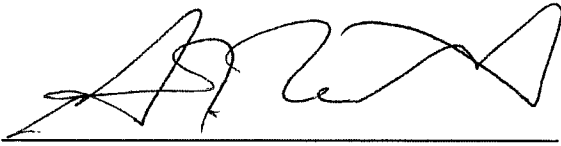
17. Plaintiff is entitled to recover the death benefit of \$74,000 plus interest from Defendant.

18. Venue is proper in the Northern District of Iowa, Central Division, as Plaintiff is and her husband, Marvin Hauth, was a resident of Webster County, Iowa and he was employed there.

19. Jurisdiction arises under the Employee Retirement Income Security Act (ERISA), 29 U.S.C. § 1001 et seq. and 29 U.S.C. § 1132.

WHEREFORE, Plaintiff, Junelle Hauth, PRAYS for judgment against Defendant, The Prudential Insurance Company of America, in the amount of the death benefit due to her, for attorney fees per 29 U.S.C. 1132(g), for interest and for the costs of this action and for other relief which is just and equitable.

JOHNSON, ERB, BICE, KRAMER, GOOD,
MULHOLLAND & COCHRANE, P.L.C.

By 

Neven J. Mulholland 000003895

809 Central Avenue, Suite 600

P.O. Box 1396

Fort Dodge, IA 50501

Telephone: 515-573-2181

Facsimile: 515-573-2548

E-mail: Neven.Mulholland@JohnsonLawIA.com

ATTORNEYS FOR PLAINTIFF

Original filed.